

Rev. Rul. 69-247, 1969-1 C.B. 303, modifying Revenue Ruling 62-10

The filing of Form 990, 990-A, or 990-P, which discloses sufficient facts to apprise the Service of the potential existence of unrelated business taxable income commences the running of the period of limitations on assessment; Revenue Ruling 62-10 modified.

The Commissioner of Internal Revenue has announced an acquiescence in result only in the decision of the Tax Court of the United States in the case of California Thoroughbred Breeders Association v. Commissioner, 47 T.C. 335 (1966). See page 21 of this Bulletin.

The question in that case was whether the filing of an information return on Form 990 commenced the running of the period of limitations against assessment of tax on unrelated business income imposed by section 511 of the Internal Revenue Code of 1954. The court found as a fact that the Association had determined in good faith that it was an exempt organization and had no taxable income and that, therefore, it was not required to file any return other than Form 990.

In the decision, the court held that the good faith filing under section 6033 of the Code of an information return on Form 990 started the running of the period of limitations on assessment of the unrelated business income tax imposed by section 511 of the Code.

The court relied upon two grounds. First, it held that under section 6501(g)(2) of the Code, the good faith filing of Form 990, under the circumstances involved, constituted filing a return for purposes of the statute of limitations not only as to exempt status but also as to unrelated business income tax liability. Second, it held that the petitioner's Form 990 showed sufficient facts upon which liability for the tax on unrelated business income could be determined.

Revenue Ruling 62-10, C.B. 1962-1, 305, holds that the filing of an information return on Form 990, Form 990-A, or Form 990-P, does not start the running of the period of limitations for purposes of assessment of the unrelated business income tax imposed by section 511 of the Code and required to be reported on Form 990-T.

An exempt organization that is subject to the unrelated business income tax and has unrelated business taxable income is required to file an unrelated business income tax return on Form 990-T. See section 1.6012-2(e) of the Income Tax Regulations. However, the decision in California Thoroughbred Breeders Association will be followed in those instances where the taxpayer has disclosed sufficient facts on Form 990, Form 990-A, or Form 990-P, filed in good faith within the meaning of section 6501(g)(2) of the Code, to apprise the Service of the potential

existence of unrelated business taxable income. The return must state the nature of the income-producing activity with sufficient specificity to enable the Commissioner to determine whether the income is from an activity related to the organization's exempt purpose, and the return must disclose the gross receipts from this activity. Revenue Ruling 62-10 is applicable where a taxpayer has not disclosed such facts on an information return.

Revenue Ruling 62-10 is hereby modified to conform to the foregoing.